



BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

**FILED**

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Order Instituting Rulemaking to Consider Refinements to and Further Development of the Commission's Resource Adequacy Requirements Program.

Rulemaking 05-12-013  
(Filed December 15, 2005)

**COMMENTS OF THE DIVISION OF  
RATEPAYER ADVOCATES ON THE  
DRAFT OPINION ON REMAINING PHASE 1 ISSUES**

**I. INTRODUCTION**

Pursuant to the Commission Rules of Practice and Procedure Rules 77.7 and 77.2, the Division of Ratepayer Advocates (DRA) submits the following comments on the Draft Decision of Administrative Law Judge (ALJ) Mark Wetzell, entitled, "Opinion on Remaining Phase 1 Issues" (hereafter referred to as the "DD").

**II. COMMENTS**

Overall, DRA supports the DD's approach to the few outstanding issues unresolved in the DD. The DD provides further guidance on two major areas addressed in the Energy Division Staff Report of April 10, 2006 ("Staff Report"), but not covered by the June 30, 2006 Phase 1 Final Decision (D.06-06-064), namely, the RAR capacity product, and final implementation issues. With the limited exceptions and clarifications noted below, DRA agrees with the Commission's policy on the Remaining Phase 1 issues in the DD.

**A. RAR Capacity Product (Section 3 of the DD; Staff Report Section II)**

DRA generally agrees with the discussion in the DD related to the development of a tradable capacity product. DRA and the Joint Parties have previously urged the

Commission to provide the necessary policy guidance for developing a tradable capacity product, while allowing the parties to develop and propose additional “essential elements” after SCE and the commercial working group submits proposed contract language.<sup>1</sup> DRA agrees that the five broad categories defined in the DD, section 3.11 should be included as essential elements of a tradable capacity product.

DRA agrees with the “forced is forced” policy as outlined in the DD (section 3.1). In short, an LSEs should not be subject to a derate in its qualifying capacity because it has experienced a forced outage. DRA agrees with the DD that the 15-17% planning reserve requirement for resource adequacy already encompasses for forced outages. Thus, requiring LSEs to procure replacement capacity forced outages would result in procuring beyond the reserve margin established by the Commission. DRA is also pleased with the the Commission’s endorsement of a bulletin board as a useful market tool for the RAR program.

With respect to the discussion of Capacity Derates (section 3.2 of the DD), the DD notes that imposition of annual QC adjustments will provide an additional market incentive to maintain reliability, above and beyond the regulatory requirements in General Order 167. The Commission should clarify that these incentives supplement but do not and cannot replace the existing General Order 167 requirements.

With respect to penalties (section 3.3. of the DD), DRA continues to be concerned that additional details of the Commission’s penalty program should be carefully considered and explored in Phase 2. DRA suggests that the Commission consider and assess the legality of additional enforcement measures, including a process whereby Energy Division staff can impose ministerial penalties for lesser violations (example, failure to timely file RA filing templates or meet certification requirements). Violations of a greater magnitude (for example, failure to adequately procure) would remain the subject of the Commission’s formal enforcement process (an Order Instituting Investigation or Order to Show Cause). DRA remains concerned that the Commission’s

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<sup>1</sup> Post-Workshop Comments of the Division of Ratepayer Advocates on Local Resource Adequacy Requirements, Tradable Capacity Product Issues, Implementation Issues and Other Issues filed April 21, 2006 (pp. 8-9); Comments of Joint Parties California Large Energy Consumers Association, et al. filed April 21, 2006 (pp. 6-7).

formal enforcement process alone may not provide timely reliability compliance incentives. These issues should be explored further in Phase 2.

With respect to the discussion of Maintenance and Repair Obligations (section 3.4), DRA recognizes the need to have a degree of uniformity in contract language, and is not opposed to the requirement that all suppliers of qualifying RAR capacity “follow Good Utility Practices as defined in CAISO tariffs and to comply with all applicable laws, regulations, and standards.” (DD at pp. 15.) However, the Commission should make clear that facilities covered by General Order 167 continue to be obligated to comply with the GO 167 maintenance and operation standards as part of their duty to comply with all applicable laws.

**B. Implementation Issues (Section 4 of the DD, Staff Report Section III)**

DRA supports the certification and template filing procedures discussion in the DD. DRA agrees that Energy Division staff should be delegated the authority to make necessary modifications in the templates and filing instructions as necessary to ensure consistency with Commission decisions and to effectively implement the Commission’s RAR program.

Respectfully submitted,

/s/ CHARLYN A. HOOK

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July 10, 2006

**CERTIFICATE OF SERVICE**

I hereby certify that I have this day served a copy of “**COMMENTS OF THE DIVISION OF RATEPAYER ADVOCATES ON THE DRAFT OPINION ON REMAINING PHASE 1 ISSUES**” in **R.05-12-013** by using the following service:

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Executed in San Francisco, California, on the **10<sup>th</sup>** day of **July, 2006**.

/s/ MARTHA PEREZ

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Martha Perez

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